## Before the **Federal Communications Commission** Washington, D.C. 20554

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In the Matter of	)	
JOSHUA A. BABB	)	
	)	
	)	
Licensee of Amateur Service Station W3JB	)	

## ORDER PROPOSING MODIFICATION

Adopted: August 26, 2015 Released: August 26, 2015

By the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

- 1. *Introduction*. For the reasons set forth below, we propose to modify the license of Joshua A. Babb, licensee of Amateur Radio Service Station W3JB. Specifically, we propose to modify his call sign to his former call sign, KD7HLX.
- 2. Background. The call sign shown on an amateur radio station license that is canceled on account of the licensee's death generally is not available to the vanity call sign system for two years following the cancellation.<sup>1</sup> The vanity call sign rules provide an exemption from this two-year waiting period for an applicant who is a close relative -i.e., the spouse, child, grandchild, stepchild, parent, grandparent, stepparent, brother, sister, stepbrother, stepsister, aunt, uncle, niece, nephew, or in-law – of a deceased former holder of the call sign.<sup>2</sup>
- 3. The license of John K. Birch for Station W3JB was canceled on account of his death, effective August 17, 2012. Consequently, the call sign would not become available to the vanity call sign system until August 18, 2014. Between May 8 and June 23, 2014, Mr. Babb, who then held call sign KD7HLX, filed four vanity application seeking various 1x2 call signs<sup>3</sup> with the suffix JB, including W3JB.<sup>4</sup> All of the applications were dismissed because they either were filed during the two-year waiting period, or (with respect to call signs that were available) a competing application was randomly selected first. On July 21, 2014, Mr. Babb filed a vanity call sign application for call sign W3JB, and indicated that he was the nephew of a deceased former holder of the call sign.<sup>5</sup> The application was granted on August 8, 2014.

<sup>1</sup> 47 C.F.R. § 97.19(c)(3).

<sup>&</sup>lt;sup>2</sup> 47 C.F.R. § 97.19(c)(3)(ii).

<sup>&</sup>lt;sup>3</sup> A 1x2 call sign contains one letter before the digit, followed by a two-letter suffix. The number of assignable 1x2 call signs is small. Amendment of Part 97 to Make Special Call Signs Available to Stations Licensed to Amateur Extra Class Operators, First Report and Order, Docket 20092, 58 F.C.C. 2d 1272, 1272 ¶ 2, 1273 ¶ 5 (1976). Such call signs are very desirable among amateur radio operators. See Amendment of Part 97 of the Commission's Rules Governing the Amateur Radio Services, Notice of Proposed Rulemaking and Order, WT Docket No. 04-140, 19 FCC Rcd 7293, 7317 ¶ 53 (2004).

<sup>&</sup>lt;sup>4</sup> FCC File Nos. 0006275463, 0006279425, 0006294809, 0006338818.

<sup>&</sup>lt;sup>5</sup> FCC File No. 0006386499.

- 4. Given the unusual pattern of an applicant asserting that he was exempt from the two-year waiting period for call sign W3JB only after filing four unsuccessful applications for a 1x2 call sign with the suffix JB, the Wireless Telecommunications Bureau's Mobility Division (Division), acting pursuant to Section 308(b) of the Communications Act of 1934, as amended,<sup>6</sup> directed Mr. Babb to provide documentation that he was the nephew of a deceased former holder of the call sign.<sup>7</sup> He responded on August 17, 2015, stating, "Mr. Birch was my grandfather's, Mother[']s, Brother.''<sup>8</sup>
- 5. *Discussion*. Mr. Babb's response to the Division's inquiry indicates that Mr. Birch was his great-great-uncle. This does not exempt Mr. Babb from the two-year waiting period for call sign W3JB. The exemption applies only to specified close relatives. The relationship claimed by Mr. Babb is too distant to qualify. Mr. Babb therefore should have been subject to the waiting period, and should not have been permitted to obtain call sign W3JB when he did.
- 6. We believe that Section 316(a)(1) of the Communications Act of 1934, as amended, provides the appropriate vehicle for resolving this matter. Section 316(a) permits the Commission to modify a station license if the action will promote the public interest, convenience, and necessity. We believe that a modification of the license for amateur station W3JB to replace call sign W3JB with call sign KD7HLX is appropriate.
- 7. In accordance with Section 1.87(a) of the Commission's Rules,<sup>11</sup> we will not issue a modification order until Mr. Babb has received notice of our proposed action and has had an opportunity to file a protest. To protest the modification, Mr. Babb must, within thirty days of the release date of this *Order Proposing Modification*, submit a written statement with sufficient evidence to show that the modification would not be in the public interest. The protest must be filed with the Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., Room TW-A325, Washington, D.C. 20554.<sup>12</sup> If no protest is filed, Mr. Babb will have waived his right to protest the modification and will be deemed to have consented to the modification.
- 8. *Conclusion*. For the reasons stated above, we conclude that the grant of call sign W3JB to Mr. Babb was improper. Accordingly, we propose to modify the amateur service operator license for amateur station W3JB by replacing call sign W3JB with call sign KD7HLX.
- 9. ACCORDINGLY, IT IS PROPOSED, pursuant to Sections 4(i) and 316(a) of the Communications Act of 1934, 47 U.S.C. §§ 154(i), 316, and Section 1.87 of the Commission's Rules, 47 C.F.R. § 1.87, that the license of Joshua A. Babb for amateur service Station W3JB BE MODIFIED by replacing call sign W3JB with call sign KD7HLX.

<sup>11</sup> 47 C.F.R. § 1.87(a).

<sup>&</sup>lt;sup>6</sup> 47 U.S.C. § 308(b).

<sup>&</sup>lt;sup>7</sup> Letter dated June 30, 2014 [sic] from Scot Stone, Deputy Chief, Mobility Division to Joshua Babb.

<sup>&</sup>lt;sup>8</sup> Letter dated August 2, 2015 from Joshua Babb to Scott [sic] Stone.

<sup>&</sup>lt;sup>9</sup> 47 U.S.C. § 316(a)(1).

<sup>&</sup>lt;sup>10</sup> *Id*.

<sup>&</sup>lt;sup>12</sup> The address for FCC locations should be used only for documents filed by United States Postal Service first-class mail, Express Mail, and Priority Mail, and for hand-delivered or messenger-delivered documents. Commercial overnight mail (other than United States Postal Service, Express Mail, and Priority Mail) should be addressed for delivery to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- 10. IT IS FURTHER ORDERED that this *Order Proposing Modification* shall be sent by certified mail, return receipt requested, to Mr. Joshua A. Babb, 37211 W. Amalfi Ave., Maricopa, AZ 85138.
- 11. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Scot Stone Deputy Chief, Mobility Division Wireless Telecommunications Bureau